

2SSB 6497 - H COMM AMD

By Committee on Criminal Justice & Corrections

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that statutorily
4 granted judicial discretion in sentencing has been limited by appellate
5 court decisions requiring jury findings prior to imposing sentences
6 above the standard sentence ranges. The legislature further finds that
7 expanding the sentencing ranges is the most appropriate method of
8 increasing judicial discretion while retaining commensurate and
9 appropriate punishment for similarly situated offenders as well as
10 assuring the frugal use of state and local government resources. The
11 legislature intends to provide judges with increased discretion and
12 decrease the need to impose exceptional sentences. The legislature
13 further intends that sentencing courts have the authority and power to
14 adopt suitable processes of proceeding in cases where exceptional
15 sentences are appropriate to the extent that such procedures are
16 mandated by the United States Constitution or Washington state
17 Constitution.

18 **Sec. 2.** RCW 9.94A.510 and 2002 c 290 s 10 are each amended to read
19 as follows:

20 ((~~TABLE 1~~)
21 ~~Sentencing Grid~~)

SERIOUSNESS		OFFENDER SCORE									
LEVEL		0	1	2	3	4	5	6	7	8	9 or more
<hr/>											
XVI Life Sentence without Parole/Death Penalty											
<hr/>											
		XV 23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y

1		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
2		320-	333-	347-	361-	374-	388-	416-	450-	493-	548-
3	XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
4		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
5		220	234	244	254	265	275	295	316	357	397
6	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
7		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
8		164	178	192	205	219	233	260	288	342	397
9	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
10		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
11		123	136	147	160	171	184	216	236	277	318
12	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
13		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
14		102-	114	125-	136-	147-	158	194	211	245-	280
15	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
16		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
17		68	75	82	89	96	102	130	144	171	198
18	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
19		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
20		41	48	54	61	68	75	102	116	144	171
21	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
22		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
23		27	34	41	48	54	61	89	102	116	144
24	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
25		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
26		20	27	34	41	48	54	75	89	102	116
27	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
28		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
29		14-	20	27	34	41	48	61	75	89	102
30	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
31		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
32		12	14	17	20	29	43	54	68	82	96
33	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
34		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
35		9	12	14	17	20	29	43	57	70	84
36	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
37		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
38		3-	8-	12	12	16	22	29	43	57	68
39	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
40		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
41		Days	6-	9-	12	14	18	22	29	43	57
42	I			3m	4m	5m	8m	13m	16m	20m	2y2m
43		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
44		Days	Days	5-	6-	8-	12	14-	18	22	29))

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TABLE 1

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Sentencing Grid

SERIOUSNESS												
	LEVEL		OFFENDER SCORE									
											10 or more	
	0	1	2	3	4	5	6	7	8	9	more	
5	<u>XVI</u> Life Sentence without Parole/Death Penalty											
6	<u>XV</u>	<u>240-</u>	<u>250-</u>	<u>261-</u>	<u>271-</u>	<u>281-</u>	<u>291-</u>	<u>312-</u>	<u>338-</u>	<u>370-</u>	<u>411-</u>	<u>411-</u>
7		<u>352</u>	<u>367</u>	<u>383</u>	<u>402</u>	<u>417</u>	<u>437</u>	<u>458</u>	<u>496</u>	<u>543</u>	<u>603</u>	<u>862</u>
8	<u>XIV</u>	<u>123-</u>	<u>134-</u>	<u>144-</u>	<u>154-</u>	<u>165-</u>	<u>175-</u>	<u>195-</u>	<u>216-</u>	<u>257-</u>	<u>298-</u>	<u>298-</u>
9		<u>220</u>	<u>234</u>	<u>244</u>	<u>254</u>	<u>265</u>	<u>275</u>	<u>295</u>	<u>316</u>	<u>357</u>	<u>397</u>	<u>595</u>
10	<u>XIII</u>	<u>123-</u>	<u>134-</u>	<u>144-</u>	<u>154-</u>	<u>165-</u>	<u>175-</u>	<u>195-</u>	<u>216-</u>	<u>257-</u>	<u>298-</u>	<u>298-</u>
11		<u>180</u>	<u>196</u>	<u>212</u>	<u>226</u>	<u>241</u>	<u>257</u>	<u>286</u>	<u>316</u>	<u>376</u>	<u>437</u>	<u>624</u>
12	<u>XII</u>	<u>93-</u>	<u>102-</u>	<u>111-</u>	<u>120-</u>	<u>129-</u>	<u>138-</u>	<u>162-</u>	<u>178-</u>	<u>209-</u>	<u>240-</u>	<u>240-</u>
13		<u>137</u>	<u>150</u>	<u>163</u>	<u>176</u>	<u>189</u>	<u>204</u>	<u>238</u>	<u>260</u>	<u>306</u>	<u>351</u>	<u>500</u>
14	<u>XI</u>	<u>78-</u>	<u>86-</u>	<u>95-</u>	<u>102-</u>	<u>111-</u>	<u>120-</u>	<u>146-</u>	<u>159-</u>	<u>185-</u>	<u>210-</u>	<u>210-</u>
15		<u>113</u>	<u>126</u>	<u>139</u>	<u>150</u>	<u>161</u>	<u>176</u>	<u>214</u>	<u>233</u>	<u>270</u>	<u>309</u>	<u>442</u>
16	<u>X</u>	<u>51-</u>	<u>57-</u>	<u>62-</u>	<u>67-</u>	<u>72-</u>	<u>77-</u>	<u>98-</u>	<u>108-</u>	<u>129-</u>	<u>149-</u>	<u>149-</u>
17		<u>79</u>	<u>89</u>	<u>96</u>	<u>104</u>	<u>111</u>	<u>120</u>	<u>151</u>	<u>168</u>	<u>201</u>	<u>230</u>	<u>312</u>
18	<u>IX</u>	<u>31-</u>	<u>36-</u>	<u>41-</u>	<u>46-</u>	<u>51-</u>	<u>57-</u>	<u>77-</u>	<u>87-</u>	<u>108-</u>	<u>129-</u>	<u>129-</u>
19		<u>48</u>	<u>57</u>	<u>64</u>	<u>72</u>	<u>79</u>	<u>89</u>	<u>120</u>	<u>135</u>	<u>168</u>	<u>201</u>	<u>270</u>
20	<u>VIII</u>	<u>21-</u>	<u>26-</u>	<u>31-</u>	<u>36-</u>	<u>41-</u>	<u>46-</u>	<u>67-</u>	<u>77-</u>	<u>87-</u>	<u>108-</u>	<u>108-</u>
21		<u>32</u>	<u>41</u>	<u>48</u>	<u>56</u>	<u>64</u>	<u>72</u>	<u>104</u>	<u>120</u>	<u>135</u>	<u>168</u>	<u>225</u>
22	<u>VII</u>	<u>15-</u>	<u>21-</u>	<u>26-</u>	<u>31-</u>	<u>36-</u>	<u>41-</u>	<u>57-</u>	<u>67-</u>	<u>77-</u>	<u>87-</u>	<u>87-</u>
23		<u>22</u>	<u>32</u>	<u>41</u>	<u>48</u>	<u>56</u>	<u>64</u>	<u>89</u>	<u>105</u>	<u>120</u>	<u>135</u>	<u>180</u>
24	<u>VI</u>	<u>12+-</u>	<u>15-</u>	<u>21-</u>	<u>26-</u>	<u>31-</u>	<u>36-</u>	<u>46-</u>	<u>57-</u>	<u>67-</u>	<u>77-</u>	<u>77-</u>
25		<u>19</u>	<u>22</u>	<u>32</u>	<u>41</u>	<u>48</u>	<u>56</u>	<u>72</u>	<u>89</u>	<u>105</u>	<u>120</u>	<u>157</u>
26	<u>V</u>	<u>6-</u>	<u>12+-</u>	<u>13-</u>	<u>15-</u>	<u>22-</u>	<u>33-</u>	<u>41-</u>	<u>51-</u>	<u>62-</u>	<u>72-</u>	<u>72-</u>
27		<u>12</u>	<u>19</u>	<u>19</u>	<u>22</u>	<u>35</u>	<u>51</u>	<u>64</u>	<u>79</u>	<u>96</u>	<u>111</u>	<u>120</u>
28	<u>IV</u>	<u>3-</u>	<u>6-</u>	<u>12+-</u>	<u>13-</u>	<u>15-</u>	<u>22-</u>	<u>33-</u>	<u>43-</u>	<u>53-</u>	<u>63-</u>	<u>63-</u>
29		<u>9</u>	<u>12</u>	<u>19</u>	<u>19</u>	<u>22</u>	<u>35</u>	<u>51</u>	<u>66</u>	<u>83</u>	<u>97</u>	<u>120</u>
30	<u>III</u>	<u>1-</u>	<u>3-</u>	<u>4-</u>	<u>9-</u>	<u>12+-</u>	<u>17-</u>	<u>22-</u>	<u>33-</u>	<u>43-</u>	<u>51-</u>	<u>51-</u>
31		<u>3</u>	<u>8</u>	<u>12</u>	<u>12</u>	<u>19</u>	<u>24</u>	<u>35</u>	<u>51</u>	<u>67</u>	<u>79</u>	<u>120</u>
32	<u>II</u>	<u>0-90</u>	<u>2-</u>	<u>3-</u>	<u>4-</u>	<u>12+-</u>	<u>14-</u>	<u>17-</u>	<u>22-</u>	<u>33-</u>	<u>43-</u>	<u>43-</u>
33		<u>Days</u>	<u>6</u>	<u>9</u>	<u>12</u>	<u>19</u>	<u>20</u>	<u>24</u>	<u>35</u>	<u>51</u>	<u>67</u>	<u>120</u>
34	<u>I</u>	<u>0-60</u>	<u>0-90</u>	<u>2-</u>	<u>2-</u>	<u>3-</u>	<u>4-</u>	<u>12+-</u>	<u>14-</u>	<u>17-</u>	<u>22-</u>	<u>22-</u>
35		<u>Days</u>	<u>Days</u>	<u>5</u>	<u>6</u>	<u>8</u>	<u>12</u>	<u>19</u>	<u>20</u>	<u>24</u>	<u>35</u>	<u>60</u>

1 Numbers in the first and second horizontal rows of each seriousness
2 category (~~((represent sentencing midpoints in years(y) and months(m)).~~
3 ~~Numbers in the second and third rows))~~ represent standard sentence
4 ranges in months, or in days if so designated. 12+ equals one year and
5 one day.

6 **Sec. 3.** RCW 9.94A.535 and 2005 c 68 s 3 are each amended to read
7 as follows:

8 The court may impose a sentence outside the standard sentence range
9 for an offense if it finds, considering the purpose of this chapter,
10 that there are substantial and compelling reasons justifying an
11 exceptional sentence. Facts supporting aggravated sentences, other
12 than the fact of a prior conviction, shall be determined pursuant to
13 the provisions of RCW 9.94A.537.

14 Whenever a sentence outside the standard sentence range is imposed,
15 the court shall set forth the reasons for its decision in written
16 findings of fact and conclusions of law. A sentence outside the
17 standard sentence range shall be a determinate sentence.

18 If the sentencing court finds that an exceptional sentence outside
19 the standard sentence range should be imposed, the sentence is subject
20 to review only as provided for in RCW 9.94A.585(4).

21 A departure from the standards in RCW 9.94A.589 (1) and (2)
22 governing whether sentences are to be served consecutively or
23 concurrently is an exceptional sentence subject to the limitations in
24 this section, and may be appealed by the offender or the state as set
25 forth in RCW 9.94A.585 (2) through (6).

26 (1) Mitigating Circumstances - Court to Consider

27 The court may impose an exceptional sentence below the standard
28 range if it finds that mitigating circumstances are established by a
29 preponderance of the evidence. The following are illustrative only and
30 are not intended to be exclusive reasons for exceptional sentences.

31 (a) To a significant degree, the victim was an initiator, willing
32 participant, aggressor, or provoker of the incident.

33 (b) Before detection, the defendant compensated, or made a good
34 faith effort to compensate, the victim of the criminal conduct for any
35 damage or injury sustained.

36 (c) The defendant committed the crime under duress, coercion,

1 threat, or compulsion insufficient to constitute a complete defense but
2 which significantly affected his or her conduct.

3 (d) The defendant, with no apparent predisposition to do so, was
4 induced by others to participate in the crime.

5 (e) The defendant's capacity to appreciate the wrongfulness of his
6 or her conduct, or to conform his or her conduct to the requirements of
7 the law, was significantly impaired. Voluntary use of drugs or alcohol
8 is excluded.

9 (f) The offense was principally accomplished by another person and
10 the defendant manifested extreme caution or sincere concern for the
11 safety or well-being of the victim.

12 (g) The operation of the multiple offense policy of RCW 9.94A.589
13 results in a presumptive sentence that is clearly excessive in light of
14 the purpose of this chapter, as expressed in RCW 9.94A.010.

15 (h) The defendant or the defendant's children suffered a continuing
16 pattern of physical or sexual abuse by the victim of the offense and
17 the offense is a response to that abuse.

18 (i) The offender score due to other current offenses, as opposed to
19 prior offenses, results in a presumptive sentence that is clearly
20 excessive.

21 (2) Aggravating Circumstances - Considered and Imposed by the Court

22 The trial court may impose an aggravated exceptional sentence
23 without a finding of fact by a jury under the following circumstances:

24 ~~((a))~~ The defendant and the state both stipulate that justice is
25 best served by the imposition of an exceptional sentence outside the
26 standard range, and the court finds the exceptional sentence to be
27 consistent with and in furtherance of the interests of justice and the
28 purposes of the sentencing reform act.

29 ~~((b) The defendant's prior unscored misdemeanor or prior unscored~~
30 ~~foreign criminal history results in a presumptive sentence that is~~
31 ~~clearly too lenient in light of the purpose of this chapter, as~~
32 ~~expressed in RCW 9.94A.010.~~

33 ~~(c) The defendant has committed multiple current offenses and the~~
34 ~~defendant's high offender score results in some of the current offenses~~
35 ~~going unpunished.~~

36 ~~(d) The failure to consider the defendant's prior criminal history~~
37 ~~which was omitted from the offender score calculation pursuant to RCW~~

1 ~~9.94A.525 results in a presumptive sentence that is clearly too~~
2 ~~lenient.))~~

3 (3) Aggravating Circumstances - Considered by a Jury - Imposed by
4 the Court

5 Except for circumstances listed in subsection (2) of this section,
6 the following circumstances are an exclusive list of factors that can
7 support a sentence above the standard range. Such facts should be
8 determined by procedures specified in RCW 9.94A.537.

9 (a) The defendant's conduct during the commission of the current
10 offense manifested deliberate cruelty to the victim.

11 (b) The defendant knew or should have known that the victim of the
12 current offense was particularly vulnerable or incapable of resistance.

13 (c) The current offense was a violent offense, and the defendant
14 knew that the victim of the current offense was pregnant.

15 (d) The current offense was a major economic offense or series of
16 offenses, so identified by a consideration of any of the following
17 factors:

18 (i) The current offense involved multiple victims or multiple
19 incidents per victim;

20 (ii) The current offense involved attempted or actual monetary loss
21 substantially greater than typical for the offense;

22 (iii) The current offense involved a high degree of sophistication
23 or planning or occurred over a lengthy period of time; or

24 (iv) The defendant used his or her position of trust, confidence,
25 or fiduciary responsibility to facilitate the commission of the current
26 offense.

27 (e) The current offense was a major violation of the Uniform
28 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
29 trafficking in controlled substances, which was more onerous than the
30 typical offense of its statutory definition: The presence of ANY of
31 the following may identify a current offense as a major VUCSA:

32 (i) The current offense involved at least three separate
33 transactions in which controlled substances were sold, transferred, or
34 possessed with intent to do so;

35 (ii) The current offense involved an attempted or actual sale or
36 transfer of controlled substances in quantities substantially larger
37 than for personal use;

1 (iii) The current offense involved the manufacture of controlled
2 substances for use by other parties;

3 (iv) The circumstances of the current offense reveal the offender
4 to have occupied a high position in the drug distribution hierarchy;

5 (v) The current offense involved a high degree of sophistication or
6 planning, occurred over a lengthy period of time, or involved a broad
7 geographic area of disbursement; or

8 (vi) The offender used his or her position or status to facilitate
9 the commission of the current offense, including positions of trust,
10 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
11 other medical professional).

12 (f) The current offense included a finding of sexual motivation
13 pursuant to RCW 9.94A.835.

14 (g) The offense was part of an ongoing pattern of sexual abuse of
15 the same victim under the age of eighteen years manifested by multiple
16 incidents over a prolonged period of time.

17 (h) The current offense involved domestic violence, as defined in
18 RCW 10.99.020, and one or more of the following was present:

19 (i) The offense was part of an ongoing pattern of psychological,
20 physical, or sexual abuse of the victim manifested by multiple
21 incidents over a prolonged period of time;

22 (ii) The offense occurred within sight or sound of the victim's or
23 the offender's minor children under the age of eighteen years; or

24 (iii) The offender's conduct during the commission of the current
25 offense manifested deliberate cruelty or intimidation of the victim.

26 (i) The offense resulted in the pregnancy of a child victim of
27 rape.

28 (j) The defendant knew that the victim of the current offense was
29 a youth who was not residing with a legal custodian and the defendant
30 established or promoted the relationship for the primary purpose of
31 victimization.

32 (k) The offense was committed with the intent to obstruct or impair
33 human or animal health care or agricultural or forestry research or
34 commercial production.

35 (l) The current offense is trafficking in the first degree or
36 trafficking in the second degree and any victim was a minor at the time
37 of the offense.

1 (m) The offense involved a high degree of sophistication or
2 planning.

3 (n) The defendant used his or her position of trust, confidence, or
4 fiduciary responsibility to facilitate the commission of the current
5 offense.

6 (o) The defendant committed a current sex offense, has a history of
7 sex offenses, and is not amenable to treatment.

8 (p) The offense involved an invasion of the victim's privacy.

9 (q) The defendant demonstrated or displayed an egregious lack of
10 remorse.

11 (r) The offense involved a destructive and foreseeable impact on
12 persons other than the victim.

13 (s) The defendant committed the offense to obtain or maintain his
14 or her membership or to advance his or her position in the hierarchy of
15 an organization, association, or identifiable group.

16 (t) The defendant committed the current offense shortly after being
17 released from incarceration.

18 (u) The current offense is a burglary and the victim of the
19 burglary was present in the building or residence when the crime was
20 committed.

21 (v) The offense was committed against a law enforcement officer who
22 was performing his or her official duties at the time of the offense,
23 the offender knew that the victim was a law enforcement officer, and
24 the victim's status as a law enforcement officer is not an element of
25 the offense.

26 (w) The defendant committed the offense against a victim who was
27 acting as a good samaritan.

28 (x) The defendant committed the offense against a public official
29 or officer of the court in retaliation of the public official's
30 performance of his or her duty to the criminal justice system.

31 (y) The victim's injuries substantially exceed the level of bodily
32 harm necessary to satisfy the elements of the offense. This aggravator
33 is not an exception to RCW 9.94A.530(2).

34 (z) The defendant's prior unscored misdemeanor or prior unscored
35 foreign criminal history results in a presumptive sentence that is
36 clearly too lenient in light of the purpose of this chapter, as
37 expressed in RCW 9.94A.010.

1 (aa) The defendant has committed multiple current offenses and the
2 defendant's high offender score results in some of the current offenses
3 going unpunished.

4 (bb) The failure to consider the defendant's prior criminal history
5 which was omitted from the offender score calculation pursuant to RCW
6 9.94A.525 results in a presumptive sentence that is clearly too
7 lenient.

8 **Sec. 4.** RCW 9.94A.537 and 2005 c 68 s 4 are each amended to read
9 as follows:

10 (1) At any time prior to trial or entry of the guilty plea if
11 substantial rights of the defendant are not prejudiced, the state may
12 give notice that it is seeking a sentence above the standard sentencing
13 range. The notice shall state aggravating circumstances upon which the
14 requested sentence will be based.

15 (2) The facts supporting aggravating circumstances shall be proved
16 to a jury beyond a reasonable doubt. The jury's verdict on the
17 aggravating factor must be unanimous, and by special interrogatory. If
18 a jury is waived, proof shall be to the court beyond a reasonable
19 doubt, unless the defendant stipulates to the aggravating facts. A
20 jury may be empaneled to find aggravating facts if the defendant pleads
21 guilty to the underlying crime but not to the aggravating factor.

22 (3) Evidence regarding any facts supporting aggravating
23 circumstances under RCW 9.94A.535(3) (a) through (y) shall be presented
24 to the jury during the trial of the alleged crime, unless the state
25 alleges the aggravating circumstances listed in RCW 9.94A.535(3)
26 (e)(iv), (h)(i), (o), or (t). If one of these aggravating
27 circumstances is alleged, the trial court may conduct a separate
28 proceeding if the evidence supporting the aggravating fact is not part
29 of the res geste of the charged crime, if the evidence is not otherwise
30 admissible in trial of the charged crime, and if the court finds that
31 the probative value of the evidence to the aggravated fact is
32 substantially outweighed by its prejudicial effect on the jury's
33 ability to determine guilt or innocence for the underlying crime.

34 (4) If the court conducts a separate proceeding to determine the
35 existence of aggravating circumstances, the proceeding shall
36 immediately follow the trial on the underlying conviction, if possible.

1 If any person who served on the jury is unable to continue, the court
2 shall substitute an alternate juror.

3 (5) If the jury finds, unanimously and beyond a reasonable doubt,
4 one or more of the facts alleged by the state in support of an
5 aggravated sentence, the court may sentence the offender pursuant to
6 RCW 9.94A.535 to a term of confinement up to the maximum allowed under
7 RCW 9A.20.021 for the underlying conviction if it finds, considering
8 the purposes of this chapter, that the facts found are substantial and
9 compelling reasons justifying an exceptional sentence.

10 (6) If the defendant enters a guilty plea to the charged crime or
11 the case is remanded for a new sentencing hearing, the court may
12 empanel a jury for the purpose of considering any aggravating
13 circumstances alleged by the state. The trial on the aggravating
14 circumstances should occur within ninety days of the entry of the
15 guilty plea, or the filing of an appellate court mandate. Upon a
16 showing of good cause, the court may extend the time for the trial on
17 aggravating circumstances. The time limit for holding a sentencing
18 hearing, set forth in RCW 9.94A.500, shall not begin to run until the
19 jury renders a verdict on the aggravating circumstances.

20 **Sec. 5.** RCW 9.94A.850 and 2005 c 282 s 19 are each amended to read
21 as follows:

22 (1) A sentencing guidelines commission is established as an agency
23 of state government.

24 (2) The legislature finds that the commission, having accomplished
25 its original statutory directive to implement this chapter, and having
26 expertise in sentencing practice and policies, shall:

27 (a) Evaluate state sentencing policy, to include whether the
28 sentencing ranges and standards are consistent with and further:

29 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

30 (ii) The intent of the legislature to emphasize confinement for the
31 violent offender and alternatives to confinement for the nonviolent
32 offender.

33 The commission shall provide the governor and the legislature with
34 its evaluation and recommendations under this subsection not later than
35 December 1, 1996, and every two years thereafter;

36 (b) Recommend to the legislature revisions or modifications to the
37 standard sentence ranges, state sentencing policy, prosecuting

1 standards, and other standards. If implementation of the revisions or
2 modifications would result in exceeding the capacity of correctional
3 facilities, then the commission shall accompany its recommendation with
4 an additional list of standard sentence ranges which are consistent
5 with correction capacity;

6 (c) Study the existing criminal code and from time to time make
7 recommendations to the legislature for modification;

8 (d)(i) Serve as a clearinghouse and information center for the
9 collection, preparation, analysis, and dissemination of information on
10 state and local adult and juvenile sentencing practices; (ii) develop
11 and maintain a computerized adult and juvenile sentencing information
12 system by individual superior court judge consisting of offender,
13 offense, history, and sentence information entered from judgment and
14 sentence forms for all adult felons; and (iii) conduct ongoing research
15 regarding adult and juvenile sentencing guidelines, use of total
16 confinement and alternatives to total confinement, plea bargaining, and
17 other matters relating to the improvement of the adult criminal justice
18 system and the juvenile justice system;

19 (e) Assume the powers and duties of the juvenile disposition
20 standards commission after June 30, 1996;

21 (f) Evaluate the effectiveness of existing disposition standards
22 and related statutes in implementing policies set forth in RCW
23 13.40.010 generally, specifically review the guidelines relating to the
24 confinement of minor and first-time offenders as well as the use of
25 diversion, and review the application of current and proposed juvenile
26 sentencing standards and guidelines for potential adverse impacts on
27 the sentencing outcomes of racial and ethnic minority youth;

28 (g) Solicit the comments and suggestions of the juvenile justice
29 community concerning disposition standards, and make recommendations to
30 the legislature regarding revisions or modifications of the standards.
31 The evaluations shall be submitted to the legislature on December 1 of
32 each odd-numbered year. The department of social and health services
33 shall provide the commission with available data concerning the
34 implementation of the disposition standards and related statutes and
35 their effect on the performance of the department's responsibilities
36 relating to juvenile offenders, and with recommendations for
37 modification of the disposition standards. The administrative office

1 of the courts shall provide the commission with available data on
2 diversion, including the use of youth court programs, and dispositions
3 of juvenile offenders under chapter 13.40 RCW; and

4 (h) Not later than December 1, 1997, and at least every two years
5 thereafter, based on available information, report to the governor and
6 the legislature on:

7 (i) Racial disproportionality in juvenile and adult sentencing,
8 and, if available, the impact that diversions, such as youth courts,
9 have on racial disproportionality in juvenile prosecution,
10 adjudication, and sentencing;

11 (ii) The capacity of state and local juvenile and adult facilities
12 and resources; and

13 (iii) Recidivism information on adult and juvenile offenders.

14 (3) Each of the commission's recommended standard sentence ranges
15 shall include one or more of the following: Total confinement, partial
16 confinement, community supervision, community restitution, and a fine.

17 (4) The standard sentence ranges of total and partial confinement
18 under this chapter, except as provided in RCW 9.94A.517, are subject to
19 the following limitations:

20 (a) If the maximum term in the range is one year or less, the
21 minimum term in the range shall be no less than one-third of the
22 maximum term in the range, except that if the maximum term in the range
23 is ninety days or less, the minimum term may be less than one-third of
24 the maximum;

25 (b) If the maximum term in the range is greater than one year, the
26 minimum term in the range shall be no less than (~~seventy-five~~) sixty
27 percent of the maximum term in the range, except that for murder in the
28 second degree in seriousness level XIV under RCW 9.94A.510, the minimum
29 term in the range shall be no less than fifty percent of the maximum
30 term in the range and except that for any offense with an offender
31 score of ten or more, the minimum term in the range shall be no less
32 than twenty-five percent of the maximum term in the range; and

33 (c) The maximum term of confinement in a range may not exceed the
34 statutory maximum for the crime as provided in RCW 9A.20.021.

35 (5)(a) Not later than December 31, 1999, the commission shall
36 propose to the legislature the initial community custody ranges to be
37 included in sentences under RCW 9.94A.715 for crimes committed on or
38 after July 1, 2000. Not later than December 31 of each year, the

1 commission may propose modifications to the ranges. The ranges shall
2 be based on the principles in RCW 9.94A.010, and shall take into
3 account the funds available to the department for community custody.
4 The minimum term in each range shall not be less than one-half of the
5 maximum term.

6 (b) The legislature may, by enactment of a legislative bill, adopt
7 or modify the community custody ranges proposed by the commission. If
8 the legislature fails to adopt or modify the initial ranges in its next
9 regular session after they are proposed, the proposed ranges shall take
10 effect without legislative approval for crimes committed on or after
11 July 1, 2000.

12 (c) When the commission proposes modifications to ranges pursuant
13 to this subsection, the legislature may, by enactment of a bill, adopt
14 or modify the ranges proposed by the commission for crimes committed on
15 or after July 1 of the year after they were proposed. Unless the
16 legislature adopts or modifies the commission's proposal in its next
17 regular session, the proposed ranges shall not take effect.

18 (6) The commission shall exercise its duties under this section in
19 conformity with chapter 34.05 RCW."

20 Correct the title.

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